IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1299 OF 2000

Mohamed Kalloo Ibrahim Shah — Petitioner
versus
Municipal Corpn. of Greater Bombay and others — Respondents

None for petitioner.
Smt.A.M.Khan for MCGB
Smt.M.H.Mhatre, APP for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 11th October 2006

PC :

1. Learned advocate for the respondent Municipal Corporation of Greater Bombay seeks adjournment to take instructions and to file appropriate reply.

2. The petition is filed in this Court and pending since the year 2000. Nothing prevented the Corporation from putting appropriate reply up till now. As to why those steps are not taken, is not clear. In such circumstances, the request is declined.

3. All that the petitioner complains in this petition is that proceedings have been commenced against him with regard to some unauthorized construction on the basis of a report submitted by one K.R.Sakharkar- complainant. The report states that the Junior Engineer (Civil) visited the premises which are more particularly mentioned in the report at page 74 of the petition paper book and discovered that the petitioner Mohamed Kalloo Ibrahim Shah and one Waman Kadam have carried out unauthorised construction of three rooms of 22x12' approximately. The petitioner, on the other hand, states that this report is nothing but a counter blast to the series of complaints that the petitioner has lodged commencing from 29th July 2000 pointing out that there is unauthorised encroachment and construction in the property known as Mohamad Kallu Compound, Jogeshwari-Vikroli Link Road, Hariyali Village, Vikroli (E), Mumbai-84.

4. In my view, such issues cannot be gone into in the jurisdiction that is conferred upon this Court either under Articles 226 and 227 of the Constitution of India or under section 482 of the Code of Criminal Procedure. It would be

appropriate in these circumstances to direct the respondents to take such steps as are permissible in law with regard to the complaint which is made by the petitioner and thereafter if the said complaint is found to be baseless and without substance, communicate to the petitioner the reasons for said conclusion. It is only thereafter that the petitioner would be prosecuted in furtherence of the report at page 74 of the paper book. For the aforesaid purposes six weeks time is granted to the respondents within which they should investigate into the complaint and communicate the result of such investigation to the petitioner. Needless to state that if the communication is adverse to the petitioner, it would be open for him to initiate such proceedings as are permissible in law.

5. No steps be taken by the respondents for a period of six weeks from today with regard to the complaint which is filed/lodged against the petitioner pursuant to the report at page 74. Petition disposed off in the above terms.

(S.C.DHARMADHIKARI, J.)